

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JULIAN DALE KEY

Petitioner,
v.

CASE NO. 5:07-CV-11507
HONORABLE JOHN CORBETT O'MEARA
UNITED STATES DISTRICT JUDGE

SHERRY BURT,

Respondent.

**OPINION AND ORDER DENYING THE
MOTION FOR A CERTIFICATE OF APPEALABILITY**

On December 6, 2007, this Court issued an opinion and order denying petitioner's application for habeas relief brought pursuant to 28 U.S.C. § 2254. *Key v. Burt*, No. 2007 WL 4303207 (E.D. Mich. December 6, 2007). This Court also denied petitioner a certificate of appealability and leave to appeal *in forma pauperis*. *Id.* Petitioner has now filed a motion for certificate of appealability, which the Court construes as a motion for reconsideration of its prior opinion and order. For the reasons stated below, the motion for a certificate of appealability is **DENIED**.

Because this Court previously denied petitioner a certificate of appealability when it denied the petition for writ of habeas corpus, the Court will construe petitioner's motion for a certificate of appealability as a motion for reconsideration of the Court's prior order to deny a certificate of appealability in this case. *See e.g. Jackson v. Crosby* 437 F. 3d 1290, 1294, n. 5 (11th Cir. 2006).

U.S. Dist.Ct. Rules, E.D. Mich. 7.1 (h) allows a party to file a motion for reconsideration. However, a motion for reconsideration which presents the same issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. *Ford Motor Co. v. Greatdomains.com, Inc.*, 177 F. Supp. 2d 628, 632 (E.D. Mich. 2001); *See also Williams v. McGinnis*, 192 F. Supp. 2d 757, 759 (E.D. Mich. 2002). A motion for reconsideration should be granted if the movant demonstrates a palpable defect by which the court and the parties have been misled and that a different disposition of the case must result from a correction thereof. *Williams*, 192 F. Supp. 2d at 759; *MCI Telecommunications Corp. v. Michigan Bell Telephone Co.*, 79 F. Supp. 2d 768, 797 (E.D. Mich. 1999). A palpable defect is a defect that is obvious, clear, unmistakable, manifest, or plain. *Witzke v. Hiller*, 972 F. Supp. 426, 427 (E.D. Mich. 1997).

In the present case, petitioner merely advances the same arguments that he raised in his original habeas petition. Petitioner's request for reconsideration will therefore be denied, because petitioner is merely presenting issues which were already ruled upon by this Court, either expressly or by reasonable implication, when the Court denied petitioner's application for writ of habeas corpus and denied him a certificate of appealability. *See Hence v. Smith*, 49 F. Supp. 2d 547, 553 (E.D. Mich. 1999).

ORDER

IT IS ORDERED that the Motion for Certificate of Appealability [Court Dkt Entry
13] is **DENIED**.

s/John Corbett O'Meara
United States District Judge

Date: January 28, 2008

I hereby certify that a copy of the foregoing document was served upon the parties of
record on this date, January 28, 2008, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager